

HOUSE BILL 3642

By Gotto

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5; Title 6; Title 7; Title 8 and Title 12, relative
to public contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 4, is amended by adding
the following as a new part thereto:

12-4-1001.

For purposes of this part, unless the context otherwise requires:

- (1) "Department" means the department of economic and
community development;
- (2) "Energy sector of Iran" means activities to develop petroleum
or natural gas resources or nuclear power in Iran;
- (3) "Financial institution" means the term as used in Section 14 of
the Iran Sanctions Act of 1996 (Pub. L. 104-172, 50 U.S.C. § 1701 note);
- (4) "Government of Iran" means the government of Iran, its
instrumentalities and any company owned or controlled by the
government of Iran;
- (5) "Investment activities" means:
 - (A) Providing goods or services of twenty million dollars
(\$20,000,000) or more in the energy sector of Iran;
 - (B) Providing oil or liquefied natural gas tankers; products
used to construct or maintain pipelines used to transport oil or
liquefied natural gas, for the energy sector of Iran; or

(C) Where the person is a financial institution, extending twenty million dollars (\$20,000,000) or more in credit to another person for forty-five (45) days or more if that other person will use the credit to provide goods or services in the energy sector of Iran and is identified on the list created under § 12-4-1003;

(6) “Iran” means the Islamic Republic of Iran;

(7) “Person” means and includes any of the following:

(A) A natural person, corporation, company, limited liability company, business association, partnership, society, trust or other nongovernmental entity, organization or group;

(B) Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. § 262r(c)(3)); and

(C) Any successor, subunit, parental entity, or subsidiary of, or any entity under common ownership or control with any entity under subdivision (7)(A) or (7)(B);

(8) “Public entity” means the state or local government, or any political subdivision thereof; and

(9) “Social development company” means a company whose primary purpose in Iran is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or informational materials, spiritual related activities, services of a purely clerical or reporting nature, food, clothing, or general

consumer goods unrelated to oil related activities, mineral extraction or non-nuclear power production activities.

12-4-1002.

(a)

(1) No person engaged in investment activities in Iran shall:

(A) Bid on, submit a proposal for, enter or renew a contract with a public entity for goods or services valued at one million dollars (\$1,000,000) or more; or

(B) Bid on, submit a proposal for, enter or renew a subcontract with a person preparing to contract with a public entity for goods or services valued at one million dollars (\$1,000,000) or more.

(2) This subsection (a) shall not apply to a social development company.

(b) After July 1, 2012, no person may submit a bid or proposal for, or enter or renew a contract with a public entity that is valued at one million dollars (\$1,000,000) or more, without first certifying to the public entity that the person is not engaged in investment activities in Iran and without first certifying to the public entity that the person will not knowingly utilize the services of a subcontractor who is engaged in investment activities in Iran. This subsection (b) shall not apply to persons granted an exemption by the department under § 12-4-1004.

(c) Violation of subsection (a) shall subject a person to a civil action by the public entity, termination of existing contracts, ineligibility to bid on or submit proposals for future contracts for a period of three (3) years, and damages in an

amount equal to the greater of two hundred fifty thousand dollars (\$250,000) or twice the amount of the contract for which the false certification was made.

12-4-1003.

(a) By October 1, 2012, the department shall identify, from its available resources, including information from nonprofit organizations, research firms, international organizations and federal and state governments, those persons engaged in investment activities in Iran since 1996.

(b)

(1) The department shall compose an Iranian investment activity list from the research conducted under subsection (a), and update the list every one hundred eighty (180) days. The list shall include only those persons who are identified as current investors.

(2) The department shall issue ninety (90) days' notice to a person who will be placed on the Iranian investment activity list of the person's inclusion on the list and that because the person has been identified as engaging in investment activities in Iran, the person is ineligible to bid on, submit a proposal for, enter into or renew a contract with a public entity for goods or services valued at one million dollars (\$1,000,000) or more.

(3) The department shall provide an opportunity for each person issued notice under subdivision (b)(2) to submit information to the department for the purpose of showing that the person is not engaged in investment activities in Iran.

(4) A person may petition the department to be removed from the Iranian investment activity list upon a showing that the person has ceased

investment activities in Iran and has made a public declaration of intent to refrain from engaging in any new investment activities in Iran.

(b) The department has the power to promulgate rules and regulations to effectuate the intent and purpose of this part, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

12-4-1004.

(a) Where a public entity is unable to obtain particular goods or services from a person not engaged in investment activities in Iran, the public entity may petition the department for an exemption where:

(1)

(A) The person was engaged in investment activities in Iran before July 1, 2012;

(B) The person has not expanded or renewed a contract for investment activities in Iran on or after July 1, 2012;

(C) The awarding entity determines that it is in the best interest of the public entity to contract with the person; and

(D) The person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investment activities in Iran; or

(2) The person is a financial institution and is included on the list under § 12-4-1003 solely because of an extension of credit to another person that has been granted an exemption by the department under subdivision (a)(1).

(b) The department may grant exemptions on a case by case basis for a particular bid, proposal or contract period.

(c) An exemption shall not be construed to remove a person from the list under § 12-4-1003.

12-4-1005.

In the event that any of the following occur, this part shall be of no further force or effect:

(1) The president of the United States affirmatively and unambiguously states by executive order or by written certification to congress:

(A) That the government of Iran has ceased to pursue the capabilities to develop nuclear weapons and the capabilities to support national terrorism; or

(B) That prohibiting persons engaged in investment activities in Iran from bidding on, submitting proposals for, or entering or renewing contracts with a public entity under this part interferes with the conduct of United States foreign policy; or

(2) The United States congress affirmatively and unambiguously states by legislation:

(A) That the government of Iran has ceased to pursue the capabilities to develop nuclear weapons and the capabilities to support national terrorism; or

(B) That prohibiting persons engaged in investment activities in Iran from bidding on, submitting proposals for, or

entering or renewing contracts with a public entity under this part
interferes with the conduct of United States foreign policy.

SECTION 2. For rulemaking purposes, this act shall take effect upon becoming a law,
the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2012, the
public welfare requiring it.